



DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General
Atlanta Field Office-Audit Division
3003 Chamblee Tucker Rd
Atlanta, GA 30341

June 30, 2003

MEMORANDUM

TO: Joseph F. Picciano
Acting Regional Director, FEMA Region II

FROM: *for* Gary J. Barard *George Picciano*
Field Office Director

SUBJECT: Municipality of Utuado, Puerto Rico
FEMA Disaster No. 1247-DR-PR
Audit Report No. DA-15-03

As requested, the Office of Inspector General (OIG) and the Commonwealth of Puerto Rico audit staff jointly conducted an audit of public assistance funds awarded to the Municipality of Utuado, Puerto Rico. The objective of the audit was to determine whether the Municipality accounted for and expended FEMA funds according to federal regulations and FEMA guidelines.

The Municipality received an award of \$28,182,076 from the Puerto Rico Office of Management and Budget (OMB), a FEMA grantee, to remove debris, provide emergency protective measures, and repair roads and other public facilities damaged as a result of Hurricane Georges in September 1998. The award provided 90 percent FEMA funding for 93 large projects and 62 small projects¹. The audit covered the period September 1998 to October 2002. During this period, the Municipality claimed \$18,131,905 (see Exhibit) and received \$15,486,185 of FEMA funds. At the time of the review, the Municipality reported that 77 large projects and 57 small projects were completed.

The OIG performed the audit under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included tests of the Municipality's accounting records, a judgmental sample of expenditures, and other auditing procedures considered necessary under the circumstances.

¹ According to FEMA regulations, a large project costs \$47,100 or more, and a small project costs less than \$47,100.

RESULTS OF THE AUDIT

The Municipality's claim contains questioned costs of \$862,627 (FEMA share \$776,364) resulting from inappropriate contracting practices, incomplete implementation of large and small projects, excessive contract charges and duplicate funding. The Municipality also had not remitted earned interest income of \$86,890 to FEMA.

- A. Contracting Practices. Contrary to sound procurement practices and federal regulations, the Municipality did not assess the capability of prospective contractors and did not select contractors whose proposals were most advantageous for the FEMA program. Consequently, the OIG questions \$499,879 of savings that should have been, but was not realized under the FEMA projects.

Federal Regulation 44 CFR 13.36 (d)(2) requires subgrantees to make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Additionally, both federal and local Municipality regulations require that contracts, under competitive proposals, be let to the responsible firm whose proposal is the most advantageous to the program, considering price and other factors.

The Municipality sought and obtained competitive bids and awarded 24 contracts to perform road repairs under 144 FEMA projects. The Municipality, however, had a single standard for selecting the winning contractor, the firm who bid closest to the FEMA award amount. Evidence was not available to show that an assessment was made of the contractors' ability to perform the services required. Moreover, contrary to federal regulation, nine of the contracts were not awarded to the responsibility bidders whose bids were the lowest in price. These contracts were awarded to firms who had made bids that were higher than the lowest bids. The OIG, therefore, questions the \$499,879 of FEMA funds spent in excess of the lowest and most advantageous bids, as follows:

<u>Contract Number</u>	<u>FEMA Amount Awarded</u>	<u>Bid Accepted and Paid</u>	<u>Lowest Bid</u>	<u>Difference</u>	<u>Questioned Cost</u>
00070	\$ 284,760	\$ 273,700	\$ 225,000	\$ 48,700	\$ 48,700
00072	377,051	355,045	298,049	56,996	56,996
00073	681,215	657,763	425,047	232,716	232,716
00151	213,480	207,900	150,610	57,290	57,290
00225	226,282	201,567	200,624	943	943
00203	166,013	166,000	162,498	3,502	3,502
00240	91,686	91,700	45,399	46,301	46,301
00240	274,644	274,644	245,279	29,365	29,365
00240	98,875	98,800	90,924	7,876	7,876
00003	93,880	90,000	75,520	14,480	14,480
00518	<u>14,352</u>	<u>13,710</u>	<u>12,000</u>	<u>1,710</u>	<u>1,710</u>
Totals	<u>\$2,522,238</u>	<u>\$2,430,829</u>	<u>\$1,930,950</u>	<u>\$499,879</u>	<u>\$499,879</u>

The Municipality retained an architectural and engineering (A&E) firm to assist in awarding and administering the contracts. An A & E official stated that the selection criteria used for awarding the contracts was approved by the grantee's public assistance coordinator and FEMA's public assistance coordinator. The former affirmed but the latter denied having approved the selection process.

- B. Incomplete Large and Small Projects. The Municipality hired several contractors to perform road repair work approved under various FEMA projects. The contractors reported that all work was completed and were paid in full for the services contained in the FEMA approved project work statements. However, through field inspections, the OIG determined that services valued at \$212,936 were not performed. The affected projects are:

Large Projects

Project Number	Amount Claimed	Amount Questioned	Description of Activities Not Implemented
04013	\$ 67,431	\$ 1,660	Replace a 48" Concrete Pipe
05792	57,560	2,223	Replace a Guardrail
09011	101,525	317	Repair a Concrete Ditch
09053	52,950	4,035	Replace a 24" Drainage Pipe
09637	414,609	22,437	Construct Retaining Walls, Catch basis, and Replace a 20" Drainage Pipe
09641	64,305	38,484	Road repairs
09686	65,325	8,838	Slope Protection and small gabion wall
09781	226,107	23,118	Replace a Concrete pavement and Construct a Concrete Swale.
09830	80,383	9,529	Construct Wire Basket
09831	102,900	1,640	Construct a Concrete Swale
10092	274,644	56,081	Asphalt Overlay
10182	375,500	9,120	Replace a 48" Concrete Pipe
10274	84,998	2,736	Construct Concrete Curbs and Gutters
10515	90,000	3,458	Replace a 24" Drainage Pipe

Small Projects

04012	\$ 27,800	\$ 1,200	Replace Concrete Swale
04014	25,562	12,666	Asphalt Overlay and Replace a Retaining Wall
09255	28,954	12,809	Repair Headwalls and Concrete Slab Replacement
10094	4,903	1,160	Ditch Cleaning and Shaping
10432	<u>34,025</u>	<u>1,425</u>	Replace a 18" Drainage Pipe
Totals	<u>\$2,179,481</u>	<u>\$212,936</u>	

- C. Excess Asphalt Charges. The Municipality's claim included excess asphalt charges of \$113,610. The Municipality hired a contractor to perform repaving projects. According to

the contract, and consistent with the FEMA approved projects, the contractor was to repave 46,735 square yards, or, an equivalent 40,337 square meters. The contractor, however, billed the Municipality \$568,830 for 50,007 square meters. The excess 9,670 square meters resulted in excess charges of \$113,610, as follows:

<u>Project Number</u>	<u>Square Meters</u>			<u>Rate</u>	<u>Questioned Costs</u>
	<u>Approved</u>	<u>Billed</u>	<u>Excess Charges</u>		
08819	13,391	20,955	7,564	\$12.00	\$ 90,768
09011	156	197	41	11.00	451
09013	3,751	4,400	649	10.50	6,815
09048	17,206	17,358	152	11.00	1,672
09642	<u>5,833</u>	<u>7,097</u>	<u>1,264</u>	11.00	<u>13,904</u>
Total	<u>40,337</u>	<u>50,007</u>	<u>9,670</u>		<u>\$113,610</u>

- D. Duplicate Funding. The Municipality claimed and received \$36,202 of FEMA funds under Project 09666 to repair the Menchaca and Bella Vista roads. However, the Municipality also received \$23,200 from the U.S. Department of Housing and Urban Development (Project Number 98-FD-62-001) and \$13,332 from the Commonwealth Rural Development Corporation (Project Number 98-72-3-391) for the same activities. The OIG questions the \$36,202 of FEMA aid because the Stafford Act prohibits duplication of benefits resulting from multiple funding sources.
- E. Interest Earned on FEMA Funds. The Municipality deposited FEMA funds from several projects in an interest bearing account and earned interest of \$86,890 during years 1999 through 2002. The Municipality, however, did not remit the interest to FEMA as required by federal regulation 44 CFR 13.21. The following represents the amount of interest earned, annually:

<u>Year</u>	<u>Interest Earned</u>
1999	\$13,903
2000	40,748
2001	26,118
2002	<u>6,121</u>
Total	<u>\$86,890</u>

RECOMMENDATION

The OIG recommends that the Regional Director, in coordination with the grantee:

1. Recover the \$86,890 of interest earned on FEMA funds; and
2. Disallow the \$862,627 of questioned costs.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The results of the audit were discussed with FEMA officials on May 22, 2003, with grantee officials on March 13, 2003, and Municipality officials on April 16, 2003. Municipality officials concurred with findings B, C, D, and E, but indicated that they wanted to further research the charges questioned under finding A.

Pursuant to FEMA instruction 1270.1, please advise the Atlanta Field Office –Audit Division by August 29, 2003, of the actions taken to implement the OIG recommendations. Should you have any questions concerning this report, please contact Salvador Maldonado-Avila at (787) 296-3527, or me at (770) 220-5242.

Municipality of Utuado
FEMA Disaster No. 1247-DR-PR
Schedule of Claimed and Questioned Costs

Large Projects

<u>Project, Number</u>	<u>Amount Awarded</u>	<u>Amount Claimed</u>	<u>Amount Questioned</u>	
04013	\$ 80,443	\$ 67,431	\$ 1,660	Finding B
05792	74,930	57,560	2,223	Finding B
05909	284,760	273,700	48,700	Finding A
08819	1,441,501	1,606,037	90,768	Finding C
09011	102,509	101,525	317	Finding B
			451	Finding C
			24,749	Finding A
09013	131,660	134,504	6,815	Finding C
09048	724,174	722,639	1,672	Finding C
09053	53,228	52,950	4,035	Finding B
09222	256,596	255,196	66,873	Finding A
09320	50,852	49,007	13,475	Finding A
09529	163,846	160,111	43,815	Finding A
09539	101,234	97,105	15,588	Finding A
09637	428,660	414,609	22,437	Finding B
09639	168,053	168,040	3,502	Finding A
09641	67,387	64,305	38,484	Finding B
09642	209,011	208,869	13,904	Finding C
09663	66,370	62,370	10,014	Finding A
09686	68,671	65,325	8,838	Finding B
			10,488	Finding A
09781	227,641	226,107	23,118	Finding B
			943	Finding A
09830	81,036	80,383	9,529	Finding B
			12,904	Finding A
09831	103,693	102,900	1,640	Finding B
09854	322,706	301,638	141,094	Finding A
10020	98,875	98,000	7,876	Finding A
10092	274,644	274,644	56,081	Finding B
			29,365	Finding A
10182	376,837	375,500	9,120	Finding B
10274	79,040	84,998	2,736	Finding B
10292	91,686	91,700	46,301	Finding A
10407	93,880	90,000	14,480	Finding A
10515	82,293	90,000	3,458	Finding B
All other large projects (64)	<u>20,777,161</u>	<u>10,738,344</u>	<u>0</u>	
Sub-totals	\$27,083,377	\$17,115,497	\$787,453	

Municipality of Utuado
FEMA Disaster 1247-DR-PR
Schedule of Claimed and Questioned Costs

Small Projects

<u>Project Number</u>	<u>Amount Awarded</u>	<u>Amount Claimed</u>	<u>Amount Questioned</u>	
03456	\$ 14,352	\$ 14,352	\$ 1,710	Finding A
04012	27,800	27,800	1,200	Finding B
04014	25,562	25,562	12,666	Finding B
09255	28,954	28,954	12,809	Finding B
			4,109	Finding A
09666	36,202	36,202	36,202	Finding D
09833	30,786	30,786	3,893	Finding A
10094	4,903	4,903	1,160	Finding B
10432	34,025	34,025	1,425	Finding B
All other small projects (54)	<u>896,115</u>	<u>813,824</u>	<u>0</u>	
Sub-Total	<u>\$ 1,098,699</u>	<u>\$ 1,016,408</u>	<u>\$ 75,174</u>	
Total	<u>\$28,182,076</u>	<u>\$18,131,905</u>	<u>\$862,627</u>	